

SENIOR EXECS FINALLY HIT THE WIRE

The Supreme Court finally settled a legal dispute that will mean more than \$30 million in back pay to over 5,000 senior executives.

The high court rejected an appeal by the Justice Department from a ruling in favor of the execs handed down last July by the U.S. Court of Appeals for the Seventh Circuit.

The government unsuccessfully argued in legal papers filed with the justices that the appeals court didn't have jurisdiction over the dispute. Instead, said the government, the case should have gone to U.S. Court of Appeals for the Federal Circuit.

But the high court wasn't persuaded and refused to hear the case. That left the appeals court ruling stand.

As is usual, the justices gave no explanation for why they decided not to take the appeal.

The case involves pay caps Congress imposed in 1980 and 1981. The lower court ruled that those caps weren't properly applied to SES members.

Government sources said they couldn't predict exactly when checks will go out to present and former members of the SES entitled to the hike.

HOW GOES SES?

Merit Systems Protection Board (MSPB) has released its report on the success, or lack thereof, of the Senior Executive Service (SES) and the results are certain to warm the hearts of those harboring hopes of the return of the old "supergrade" system. Among the MSPB's findings are these:

- Pay and benefits are not keeping SESers in government. Job enjoyment and public service are more important motivators.
- Of equal importance in keeping executives in government is the generous retirement system. Any negative reforms in the retirement system will likely be a disincentive to continued tenure.
- Poor public image of federal employees, salary levels and lack of promotion potential also serve as negative incentives to SES retention.
- Advancement to SES does not serve as a motivation for most mid-level managers.
- SES bonuses are not sufficiently generous.
- Distribution of SES bonuses is not equitable.
- More SESers believe the disadvantages of the system outweigh the advantages.
- Private sector recruitment efforts had been made for nearly half of current SESers.

- Among former SESers now employed in the private sector, average salary increase was over \$17,000 annually, compared to their government salaries.
- Job satisfaction among former SESers now employed in the private sector has increased substantially, compared to their government employment satisfaction.
- Nearly three fourths of current SESers say the system neither helps nor hinders them in their job performance. The MSBP study did turn up some good news for SES supporters, however:
- Fewer than 5% of current SESers reported personally experiencing a prohibited personnel action.
- More than three fourths believe their current SES job performance rating is a fair and accurate summary of their actual performance.
- Favoritism in awarding job bonuses or other rewards was the most commonly observed prohibited personnel practice.
- Reassignments or shelving of SESers was the most commonly observed arbitrary action.
- Five agencies appear to have the most prohibited personnel actions, including Departments of Commerce, Education and Housing and Urban Development, as well as the Environmental Protection Agency and the General Services Administration.

SUPPLY-SIDE CIVIL SERVICE

The current edition of Government Union Review — published by the conservative Public Service Research Foundation — contains some interesting remarks by OPM General Counsel Joseph A. Morris.

Morris made the remarks — generally explaining and supporting the administration's pay for performance plans — at an international conference on public administration last year, co-sponsored by Indiana University and the University of Paris: "We must bring sound business and market-oriented practices into the governmental workplace. Such reforms are intended — and our evidence to date indicates that they succeed — to improve employee efficiency and the effectiveness of government managers. If, by introducing the civil service to capitalism, they also have the salutary effect of teaching government administrators what life is like in the world of the citizens whom we tax and regulate, then so much the better for democracy. "We must move toward a capitalist civil service. Public administrators must see the citizenry as their market. They must respond to feedback. . . Civil service pay, benefits, security and prestige should not be merely the subsidized objects of consumption. They should be the rewards of efficient production. I suppose we can call this, 'supply-side civil service.' "

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